

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STEVEN SCHMALZ, on behalf of himself  
and all others similarly situated,

Plaintiff,

V.

MBIA, INC., GARY C. DUNTON, and C.  
EDWARD CHAPLIN,

Defendants.

TEAMSTERS LOCAL 807 LABOR  
MANAGEMENT PENSION FUND,  
Individually and On Behalf of All Others  
Similarly Situated,

Plaintiff,

V.

MBIA, INC., GARY C. DUNTON, C.  
EDWARD CHAPLIN, and JOSEPH W.  
BROWN,

Defendants.

(Caption continued on subsequent page)

**CIVIL ACTION NO. 08-CV-0264-KMK**

ECF Filed

**CIVIL ACTION NO. 08-CV-1845-KMK**

**MEMORANDUM OF LAW IN FURTHER SUPPORT OF THE MOTION OF  
THE TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA FOR (1)  
APPOINTMENT AS LEAD PLAINTIFF; (2) APPROVAL OF ITS SELECTION  
OF COUNSEL AS LEAD COUNSEL FOR THE CLASS; AND (3)  
CONSOLIDATION OF ALL RELATED ACTIONS**

Defendants.

**CIVIL ACTION NO. 08-CV-2362-UA**

The Teachers' Retirement System of Oklahoma ("Oklahoma Teachers") respectfully submits that it should be appointed Lead Plaintiff. Oklahoma Teachers' motion is unopposed, as all of the other investors who initially sought appointment as Lead Plaintiff have now conceded that Oklahoma Teachers is the presumptive Lead Plaintiff and do not oppose its appointment.<sup>1</sup>

The Private Securities Litigation Reform Act of 1995 ("PSLRA") requires the Court to appoint as Lead Plaintiff the movant with the "largest financial interest in the relief sought by the class" that "otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure." *See* 15 U.S.C. § 78u-4(a)(3)(B); *see also Glauser v. EVC Career Colleges Holding Corp.*, 236 F.R.D. 184, 187 (S.D.N.Y. 2006). Oklahoma Teachers, as an adequate class representative with typical claims, clearly satisfies these requirements and should be appointed Lead Plaintiff. Oklahoma Teachers' loss of \$7.1 million from its transactions in MBIA Inc. ("MBIA") securities is not only larger than that of any of the other movants, it is significantly larger than the losses of all of those movants combined. Oklahoma Teachers is, in addition, a sophisticated and experienced institutional investor and is, therefore, "precisely the type of sophisticated institutional investor that Congress and this Court have recognized as being ideally suited to control this type of securities class action litigation." *EVC Career Colleges Holding Corp.*, 236 F.R.D. at 188. Oklahoma Teachers is, therefore, the "most adequate plaintiff" under the

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<sup>1</sup> The other movants and their claimed losses are: Louisiana Municipal Employees' Retirement System ("MPERS"), asserting losses of \$1.86 million; Tulare County Employees' Retirement Association ("Tulare County"), asserting losses of \$1.69 million; Massachusetts Laborers' Annuity Fund ("Massachusetts Laborers"), asserting losses of \$1.25 million; and Plymouth County Retirement System ("Plymouth County"), which asserts a loss of \$789,951.

PSLRA and respectfully submits that it should be appointed Lead Plaintiff and its motion should otherwise be granted. 15 U.S.C. § 78u-4(a)(3)(B).<sup>2</sup>

Accordingly, Oklahoma Teachers respectfully requests that the Court appoint it as Lead Plaintiff, approve its selection of Bernstein Litowitz Berger & Grossmann LLP as Lead Counsel for the Class, and consolidate all related actions.

Dated: March 28, 2008

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER &  
GROSSMANN LLP**

/s/ Gerald H. Silk

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*Counsel for the Teachers' Retirement  
System of Oklahoma and Proposed Lead  
Counsel for the Class*

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<sup>2</sup> Each of the other movants have withdrawn or stated their support for or non-opposition to Oklahoma Teachers' appointment based upon its larger financial interest. *See* MPERS' Response to Competing Motions for Appointment as Lead Plaintiff, at 1 (Dkt. # 28) ("It appears that the Teachers Retirement System of Oklahoma ('Teachers Retirement System') has the largest financial interest of any adequate movant in the litigation [and] pursuant to the Private Securities Litigation Reform Act of 1995, the Teachers Retirement System should be appointed by this Court"); Response of Tulare County to the Competing Motions for Appointment as Lead Plaintiff, at 1 (Dkt. # 25) ("it appears that the Teachers' Retirement System of Oklahoma ('Oklahoma Teachers') has the largest loss of any other adequate lead plaintiff movant"); Massachusetts Laborers' Response to Competing Motions for Consolidation, to Appoint Lead Plaintiff and Approve Selection of Counsel, at 1 (Dkt. # 26) ("it appears that the Teachers' Retirement System of Oklahoma claims the largest financial interest in the relief sought by the class"); Plymouth County's Notice of Withdrawal Without Prejudice of Its Motion for Consolidation, Appointment as Lead Plaintiff, and Approval of Its Selection of Lead Counsel, at 1 (Dkt. # 27) ("Having reviewed the competing motion filed by Oklahoma Teachers, it appears that Plymouth County does not possess the 'largest financial interest in the relief sought by the class'").